

*Patton, Boggs & Blow*

FAX Transmission

From: Russell V. Randle, Esq.  
To: Pete Raack, Esq.  
Company: EPA Region IV

Date: October 13, 1993  
Time: 4:14 PM  
FAX #: (404) 347-5246

Message:

VOICE: (202) 457-5282 FAX: (202) 457-6315

2550 M Street, NW, Washington, DC 20037



10663502

**PATTON, BOGGS & BLOW**

2550 M STREET, N.W.  
WASHINGTON, D.C. 20037  
(202) 457-8000

TTY TELE: 187780  
TELECOMPER: 457-8315

WRITER'S DIRECT DIAL

(202) 457-5282

October 13, 1993

**VIA TELECOPY AND  
FEDERAL EXPRESS**

Peter Raack, Esq.  
Assistant Regional Counsel  
United States Environmental  
Protection Agency  
Region IV  
345 Courtland Street, N.E.  
Atlanta, Georgia 30365

Re: Carrier Air Conditioning Site  
Collierville, Tennessee

Dear Mr. Raack:

This letter responds, on behalf of my client, Carrier Corporation, to the October 7, 1993 letter from Ms. Beth Brown, EPA's Remedial Project Manager (RPM) for the above-referenced site to Mr. Nelson Wong, of Carrier Corporation. In that letter, Ms. Brown asserts that Carrier is in violation of the administrative order at that site for failure to submit the requested revisions to the Remedial Design (RD) work plan at the time requested by EPA.

As we discussed by telephone on Tuesday, the revisions have now been submitted to EPA. They contain certain items which are technically unusual, at least in my experience at superfund sites. As noted in Ms. Brown's letter, there has been a lengthy series of telephone consultations among herself, Carrier's consultant, EnSafe, and Carrier in the period after EPA's comments. As Ms. Brown's letter also notes, EPA did not provide its comments until August 7, over three months after Carrier submitted the draft.

Carrier disagrees with EPA's contentions that Carrier has violated or is in violation of the Administrative Order for this site, particularly given the lengthy time EPA took to respond to the draft plan, and the numerous technical consultations with EPA after EPA provided Carrier its comments in August. These consultations strongly suggested to Carrier that EPA wanted the best engineering plan for the cleanup it could get, one that

**PATTON, BOGGS & BLOW**

Peter Raack, Esq.  
October 13, 1993  
Page 2

would require little if any later revision or delay, rather than a short-sighted focus on the submission of plans which would require more revision and more time to accomplish the cleanup of the site.

Carrier specifically reserves all its rights and defenses to any claim by EPA that Carrier has violated or is in violation of the Administrative Order. Carrier does not believe that the assertion of such claims by EPA advances the clean-up process, as such assertions distract the parties from their primary objective, cleaning up the site, and tend to discourage the productive informal approach which has so far been used at this site. Carrier hopes that the submission of its revisions will lay this matter to rest, and allow the parties to return their focus to the cleanup rather than arguments about claimed violations of the administrative order.

In Carrier's view, EPA's adamant insistence on remedying this site under CERCLA's slow and cumbersome procedures, as opposed to the flexible and speedy corrective action authority available to EPA under the Safe Drinking Water Act and 40 C.F.R. § 144.12, has added several years and significant additional costs to this clean-up for no discernible environmental benefit. In early 1989, Carrier vigorously sought EPA's approval to conduct the clean-up under the more expedited procedures available to EPA under the SDWA. EPA rejected that suggestion sharply in June 1989 for reasons which then seemed good to EPA.

Last month, EPA officials reported at a public conference that EPA is now using the SDWA corrective action authority to accomplish speedy cleanups at sites like Collierville, where public water systems are involved. These EPA public comments suggest that Carrier is being penalized simply because it was prematurely correct in advocating the use of such SDWA authority at this site. Given this history, and EPA's current use of the faster SDWA authority at other sites, claims now by Region IV that Carrier has somehow delayed the clean-up process at this site are not well-taken.

Carrier requests that this letter be made part of the administrative record for this site, just as EPA's October 7, 1993 letter is.

Please call if you should have any questions about this matter.

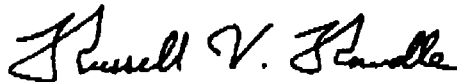
**PATTON, BOGGS & BLOW**

Peter Raack, Esq.

October 13, 1993

Page 3

Sincerely,

A handwritten signature in cursive script, reading "Russell V. Randle".

Russell V. Randle

Counsel to Carrier Corporation